

## **APPENDIX C**

### **COMPLIANCE WITH APPLICABLE LAWS**

Pursuant to Section XXIV of the Consent Decree and RCW 70.105D.090(1), the remedial actions described in the Cleanup Action plan are exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the cleanup action must comply with the substantive requirements of such permits or approvals. The exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they apply to the cleanup action, are listed below.

- 1) Under the State Hydraulic Code, Chapter 77.55 RCW and related rules, construction or alteration within state waters must be done in a manner to prevent damage to the state's fish, shellfish, and their habitats. Under the provisions of the Hydraulic Project Approval (HPA, the related state permit) activities that affect the bed or flow of state waters are allowed when there is little or no effect on fish or shellfish. In order to mitigate these impacts, incorporation of the following project elements is required: planting of eelgrass over approximately 2.9 acres in the project area; riparian planting along the nearshore habitat; placement of a uniform cap layer that contains a graded mix of material that will be protected from erosion; removal of contaminated sediment and numerous creosote-treated timber piles and pile stubs from the aquatic environment; replacement of existing riprap on Port property with a step wall, creating low-sloped sediment habitat in the upper intertidal zone; incorporation of grated structures within proposed floats and gangway in order to minimize shading of nearshore areas; placement of a fine substrate mix over the landward sides of the wave attenuators; timing of construction to avoid outmigration of juvenile salmonids; and use of best management practices to control erosion and water quality impacts during dredging, excavation, and backfill activities.
- 2) The base construction for the portion of the temporary haul road on the 17<sup>th</sup> Street alignment between Q Avenue and R Avenue shall be constructed in accordance with City standards suitable as base for a permanent road.
- 3) Under the City of Anacortes Municipal Code ("AMC"), damage to City facilities must be restored following construction. The truck traffic onto R Avenue created by the cleanup action is likely to cause serious degradation to this street. Therefore, an overlay to Q and R Avenue is required at the end of the project cycle. This overlay will occur from 17<sup>th</sup> Street north to Seafarer's Way. Total cost of asphalt overlay shall not exceed \$60,000.
- 4) Under the AMC the existing bio-swale along the property line of the Port property and MJB property must be improved to current city standards to accommodate anticipated increases in water run-off from the Site resulting from the cleanup action.
- 5) The sewer pump station located on Parcel 3 will be impacted by the cleanup action. The existing pump station does not meet code requirements. Because the AMC

requires such utilities to be replaced with equipment that meets current applicable codes, and because sewer service to the area must not be disrupted, a new pump station will be constructed on an area of the Site that will not be impacted by the cleanup action, and service will be switched to the new pump station prior to the commencement of cleanup activities that will impact the old pump station.

6) Under the City of Anacortes Shoreline Master Program, public projects should provide new public access and mitigate for the elimination of existing public access. To comply with the substantive provisions of the Master Program, following the remedial construction phase of the cleanup action the Port must construct a continuation of the waterfront esplanade, redevelop the existing park, and replace the existing dock to include new view areas, as well as a tide sensitive dock. Because the boating community heavily utilizes this area throughout the year, amenities which will support small boat activities should be installed as well.